

2026:PHHC:012395



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1284-2016(O&M)

Date of order: January 28, 2026

Surinder Singh

...Petitioner

Versus

Kaushaliya Devi and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Divanshu Jain, Advocate for the petitioner.

Mr.Ashish Gupta and Mr.Gurdeep Singh Bidhan, Advocates
for respondents No.1 and 2.

ARCHANA PURI, J.

The petitioner-tenant has invoked the revisional jurisdiction of this Court under Section 15(5) of the East Punjab Urban Rent Restriction Act, assailing the judgment dated 07.01.2016 passed by learned Appellate Authority, whereby, the order of dismissal of the eviction petition dated 16.01.2015 passed by the Rent Controller, was set aside and eviction petition, as such, was allowed.

The essential facts, to be noticed, are as follows:-

That, the respondents-landlords had filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, against the petitioner-tenant, on the ground of non-payment of rent, house tax and demised shop being required by the landlords, for their bonafide personal necessity. As

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per the version set up, Smt.Kaushaliya Devi-respondent No.1 along with her husband Dharamvir had purchased building bearing NO.278/9 old, 2720 new, Balmiki Chowk, opposite PSEB Office, Jandiala Guru vide two registered sale deeds, in equal share. Dharamvir, after the purchase of the building, had let out one shop, which formed the part of the building to the petitioner-tenant for running business of tea stall at the rate of Rs.500/- per month, vide rent note dated 29.12.1989, executed by the tenant, in favour of Dharamvir. Said Dharamvir died on 12.10.1995, leaving behind the respondents and another son, namely Manish Kumar. As per the version set up, the rent was not paid, in accord with the terms settled and as such, the petitioner-tenant was under arrears of rent.

Besides the same, the respondents-landlords had asserted about the requirement of the shop by respondent No.1 bonafide, for her own use and occupation as well as for the use of her younger son, namely Manish Kumar, who, at present, was doing business along with his elder brother, of the sale of bedroom accessories and he wanted to start the same business, in the demised shop. Moreover, respondent No.1 is too old and had been residing in her matrimonial house, who does not want to leave her house to reside with her sons at Panipat, as her whole life sentiments are attached with her house and there is no one to look after her and she wants to bring her younger son back to Jandiala Guru and to start the said business to earn bread. The respondents have not vacated any non-residential property, within the limits of Amritsar.

In reply, the petitioner-tenant had raised preliminary objections, thereby, disputing the maintainability of the petition as well as there to be



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concealment of the material facts, at the instance of the landlords and also not having come to the Court with clean hands, the application being false and frivolous and that, he is regularly making payment of the rent.

On merits, the extent of rent payable was denied. So far as, the requirement of the shop for personal necessity is concerned, it was denied that there was any need of respondent No.1, because she is an old lady, physically unable to do any work and the requirement of the shop, for the use and occupation of younger son Manish Kumar, was also denied. In fact, it was also pleaded that Manish Kumar is having family dispute and as such, he is residing separate for the last several years in Panipat. He is having six shops in Panipat, where he is running his business and also has a factory there. He does not have any desire to come to Amritsar, as he has flourishing business in Panipat.

Further, the petitioner-tenant had asserted about his children to be dependent upon his earnings and that he has no other source and has not got any other property, where he can shift his business. In fact, it was asserted that the landlords are in possession of sufficient accommodation at Amritsar, at different places and also at Panipat. They want to get the property vacated to sell the same, at a higher price and respondent No.1 wants to settle at Panipat.

From the pleadings of the parties, following issues were framed:-

“1. Whether respondent is liable to be ejected from the demised premises? OPA.

2. Whether respondent is liable to pay arrears of rent as prayed



for? OPA.

3. Whether the respondent is liable to pay house tax at the rate of 15% per annum? OPA.

4. Whether applicant requires the shop for her bonafide use and occupation? OPA.

5. Whether the present application is not maintainable? OPR.

6. Relief.”

Both the parties adduced evidence. After hearing counsel for the parties, the eviction application was dismissed by the Rent Controller vide order dated 16.01.2015.

Being aggrieved, the respondents-landlords filed appeal. The petitioner-tenant had also appeared in the same and after hearing counsel for the parties, the said appeal was accepted vide impugned judgment dated 07.01.2016 and the order of dismissal of the eviction application was set aside and eviction order was passed on the grounds of bonafide personal necessity as well as conditional order of eviction, on the ground of non-payment of rent was also passed.

Not satisfied, the petitioner-tenant has filed the revision petition in hand.

In pursuance of the notice issued, contesting respondents appeared through counsel.

Counsel for the parties heard.

At the very outset, learned counsel for the petitioner assiduously contended that learned Appellate Authority has failed to appraise the pleadings and the evidence, in correct perspective. In the light of the same, the Court as such, had erroneously set aside the order of



dismissal of eviction petition, passed by the Rent Controller, which was a reasoned order. In fact, it is submitted that findings qua personal necessity have been reached by the Appellate Authority, while giving amiss to necessary ingredients, to establish the same, having not coming forth, either in the pleadings or in the evidence, brought on record, which proves fatal to the case, set up by the landlords. While relying upon the judgment passed in *Banke Ram vs. Smt.Sarawati Devi, 1977 (1) RCR (Rent) 595*, learned counsel contends that in the absence of pleadings, with regard to necessary ingredients, the eviction application, as such, is liable to be dismissed. As per the provisions of Section 13(3)(a) (I), the respondents were required to plead in the eviction application that they are not ‘**occupying**’ any other building in the urban area concerned. However, the requisite assertion has never been made.

In fact, learned counsel submits that amiss to plead the requisite ingredients in itself, in the petition, establish that the ‘need’ so set up, is not bonafide. In fact, counsel submits that there are various lacunae in the case set up by the respondent to seek eviction, as the son of the landlady, for whom, the ground of ‘personal necessity’ has been taken, has not stepped into witness box and even said son had also sold the property vide sale deed dated 25.08.2006, which has been brought on record, which also negates the plea of bonafide requirement.

Also, learned counsel for the petitioner-tenant submits that the appraisal qua the ‘**need**’, to be established, to be bonafide, is also perverse, cursory and entire observations carry glaring infirmities in utter disregard to the pleadings of the parties, undisputed facts and the evidence brought on



record and above it, not in tune with the settled position of law.

Thus, summing up his submissions, learned counsel submits that 'need' is not established to be bonafide. The same has been set up with the malafide intention, only with a purpose to seek eviction of the petitioner-tenant.

In the light of the same, learned counsel for the petitioner-tenant made submission for acceptance of the revision petition and to set aside the judgment of learned Appellate Authority.

On the other hand, learned counsel for respondents-landlords refuted the aforesaid submissions. In fact, it is submitted that landlords should not be non-suited, on the ground of lack of necessary pleadings, particularly, when the tenant failed to prove any prejudice caused to him, more particularly, when specific objection, with regard to lack of pleadings was not raised in reply and no issue, qua the same ever came to be framed. Rather, learned counsel submits that Kaushaliya Devi stepped into witness box as AW-1 and she had been cross-examined at length, by counsel representing the tenant. He submits that despite lengthy cross-examination, the counsel for the tenant has failed to impeach the credibility of the said material witness. No question, with regard to lack of pleadings was put to the landlady and also no cross-examination, as such, was conducted to non-suit the landlady, on account of lack of necessary ingredients.

In fact, it is submitted that such being the state of affairs, lack of assertion in the written statement, resulted into waiver, on the part of the tenant and thus, respondents-landlords could not be non-suited on this ground.



In the light of the aforesaid submissions, record of the trial Court was gone through, with the able assistance of the counsel for both the parties.

Throughout the arguments, learned counsel for the petitioner-tenant has laid much emphasis upon the written statement, wherein, objection, with regard to the maintainability, as such, was taken. However, perusal of the written statement filed on behalf of the petitioner-tenant would show that though, objection with regard to the maintainability, as such, was raised, but however, no specific or categoric objection, as regards non-maintainability, on account of necessary ingredients of the ibid Act, to seek eviction was raised therein. Not only this, while conducting cross-examination, this aspect, as such, was given amiss. Nor any evidence was led to assert about suppression to be there, on the part of the landlords, on account of which, amiss was given to the essential ingredients, as per the requirement of the ibid act. Even though, in the written statement, the question of maintainability of the petition was raised, but however, on what ground, relating to the same, nothing as such, has been stated in the reply.

Even though, in the written statement, it has been stated that the landlords are in possession of sufficient accommodation in Amritsar at different places and also at Panipat and that they want to get the property vacated, in order to sell the same at higher price and that respondent No.1 wants to settle at Panipat, after the sale of demised shop, but qua the said assertions, no evidence, as such, has been led. This is quite a vague assertion, not substantiated by any evidence.

Throughout the arguments, much emphasis has been laid upon



Banke Ram's case (supra), wherein, Hon'ble Full Bench of this Court has held that it is a requisite to incorporate the necessary pleadings, in order to give an opportunity to the tenant to defend the petition.

However, it is essential to take note of the observations made by the Hon'ble Full Bench in paragraph No.12 of the *ibid* judgment, wherein, it was observed as herein given:-

“12. In the present case, we are concerned only with the question as a principle of law as to whether it is essential to plead in an eviction application the ingredients of sub-clauses. (b) & (c) and not the question that if in a particular case these ingredients are not pleaded, but the parties have led evidence with regard to them, what will be the effect? In any given case, where facts have not been averred in the pleading, a number of questions can arise as to whether proper evidence has been adduced by the landlord regarding those facts which do not find place in the pleadings and secondly whether such evidence will be admissible or not and lastly, whether the tenant was taken by surprise or not and had led evidence with full knowledge of the requisite contentions raised by the landlord and whether the tenant has in those circumstances been prejudiced or not. The Court would be required to give full consideration to the contentions raised by the respective parties and the facts and circumstances of each case before giving its decision in favour of the landlord or the tenant, but the decisions of the High Courts or the Supreme Court, in this regard, can not be of any avail to detract from the validity of the proposition that it is necessary for the landlord to make averments regarding the ingredients of sub-clauses (b) and (c). However, it may be made clear that when it is held that it is essential to plead the ingredients of sub-clauses (b) and (c) in the eviction application by the landlord, it should not be



understood that under no circumstances in the absence of pleadings, the evidence regarding the ingredients envisaged in sub clauses (b) and (c) can be looked into. This is not peculiar to the eviction applications. Similar considerations come into operation even in the case of suits which are governed by the specific and detailed provisions of the Code of Civil Procedure regarding pleadings.”

In the light of the aforesaid, it is pertinent to mention that when Kaushaliya Devi appeared as witness in the case in hand, her attention was never drawn to the lack of necessary pleadings nor her explanation on the aforesaid fact, was ever sought by the tenant. As observed, the tenant, while filing the written statement, also did not raise the clear and specific objection, as to the maintainability of the petition, on the ground of lack of pleadings of necessary ingredients. Even, the cross-examination, on this aspect was never conducted. No suggestion was given to the landlady about lack of pleadings regarding necessary ingredients. When the tenant himself appeared in the witness box, he never asserted that any of the respondents, ever occupied any commercial building in the urban area concerned.

In this context, the matter is required to be examined. One should not lose sight of the fact that as per settled principles of law here in India, the pleadings are laconic and the pleadings alone, should not be literally examined to non-suit a party, particularly, when no prejudice is caused. It is also well settled that ambiguity in the pleadings, regarding the necessary ingredients set out in Section 13 (3) (a) of the Act, if made good in the evidence, is sufficient compliance of the statutory requirement.

In this regard, as observed aforesaid, non-mentioning of lack of



pleadings qua the necessary ingredients, never raised by the petitioner-tenant, specifically in the written statement, would result into waiver on his part and on this account, the landlords, as such, could not be non-suited. Such being the situation, there was nothing stopping the tenant to assert about lack of pleadings and to conduct cross-examination, on this aspect, of the landlady, when she stepped into witness box. Even, while tenant himself stepped into witness box, he could have very well pointed out about the lack of pleadings of the necessary ingredients and also about the prejudice having caused to him. However, neither the petitioner-tenant has conducted the cross-examination on this aspect nor while himself stepping into witness box, he had asserted about the impact of lack of pleadings of the necessary ingredients. In such circumstances, this obviously resulted into waiver on his part and no prejudice, as such, is established to be there.

In the given facts, the tenant will be deemed to have acquiesced or abandoned his objection, particularly. when neither in the written statement nor in the evidence, this fact was ever pointed out.

In ***Madan Gopal vs. Mam Raj, AIR 1976 SC 461***, the Hon'ble Supreme Court, after analysing that the pleadings in the District Courts are laconic, observed that the Court should not scrutinize the pleadings so meticulously, in order to non-suit the parties in dispute. At the most, it is a technical omission, for which the landlord cannot be thrown out, particularly, when the technicalities are the handmaid of justice and they should not be hindrance in imparting justice.

Also, reference is made to ***Sat Parkash Chaudhary vs. Kewal Krishan Malhotra, 2010(4) PLR 622***, wherein, regarding ingredients, it was



observed, as herein given:-

“7. There is no dispute to the proposition of law as enunciated in the Full Bench judgment relied upon by the learned counsel for the petitioner. But, at the same time, the court cannot be oblivious to the fact that mere non-pleading of a fact, which is enshrined in the statute, can always be rectified if a relevant objection is taken at the initial stage. The petitioner failed to take any such objection in his reply to the petition. The pleadings have to be considered broadly in a rent petition where it is not captive to the strict law of interpretation which may be the situation in a civil suit. In rent proceedings the Rent Controller is merely obliged to hold an inquiry to look into the averments which have been made in the petition. In view of the fact that the petitioner failed to take such objections and also in view of the fact that the respondent broadly pleaded his personal necessity and also the fact that he had not vacated any house in the municipal area where the demised premises is situated, I am of the opinion that the flaw which has been pointed out by the learned counsel for the petitioner is not fatal to the case of the respondent. The objection, therefore has to be negated.”

This view was further followed in the subsequent case in ***Gurbaj Singh vs. Parshotam Singh, 2011 (3) PLR 653***. The argument that the respondents failed to plead or state that they are not occupying any other shop, would lose significance, as there was no objection, specifically taken in the written statement. Neither any issue was framed nor the tenant had conducted cross-examination of the landlady, on this aspect. Even, while he himself having stepped into witness box, did not lead any evidence, with regard to the amiss, so given by the landlords and the impact of the same.



In the light of the aforesaid, it is pertinent to mention that the tenant, in his reply, had taken the plea that respondents are in possession of six other shops and they have various other properties in Amritsar as well as in Panipat and that the necessity, as such, has been raised only with the purpose to seek possession of the property, to sell the same, at higher price. However, relating to this sweeping assertion made, no evidence of any kind, has been led by the petitioner-tenant.

Such being the position, learned Appellate Authority had very correctly concluded about the landlords to have neither occupied any other commercial property nor vacated any such property, within the urban area concerned, since coming into force of the Rent Act. Also, there is no evidence that even, Manish Kumar has ever occupied or vacated any commercial property, within the urban area concerned. Such being the position, where the parties have understood the case and led the respective evidence, relating to which tenant gave amiss, in the cross-examination of the landlady, as well as while examining himself as a witness, non-framing of issues or lack of pleadings is inconsequential. As such, the contention raised aforesaid, is bereft of merits.

Also further, counsel for the petitioner-tenant has laid much emphasis upon the plea of 'personal necessity' to have been raised, only with the purpose to seek malafide eviction, as it is submitted that respondent No.1-Kaushaliya Devi is an aged person, who is above 70 years of age and therefore, there is no need, as such, for her to initiate any business, in the property in question and even her son, for whose necessity the eviction is sought, is well settled in Panipat.



So far as age of Kaushaliya Devi is concerned, no plea, as such, can be raised by the tenant to doubt the genuineness of 'need' as set up, as mere advancement in age, is no ground to dislodge the claim of the landlady that she needs the premises to start business. The law is well settled that '**need**' of the landlord has to be seen from the angle of the landlord and not from the viewpoint of the tenant. No terms, as such, can be dictated by the tenant and for that matter, by the Court also. The only requirement is that the '**need**' should be sincere and honest and not a mere pretense. The landlord is best judge to make assessment of his '**need**'.

Considering the same, no doubt, Kaushaliya Devi is an aged person, but however, the age, as such, cannot be disadvantageous to the right of the landlady to seek eviction of the tenant, on bonafide need of the tenanted premises. She has asserted specifically in the eviction application about her to be occupant of a house in Jandiala Guru, since her marriage and she is emotionally attached to the same and she does not want to leave the house and to go away from Jandiala Guru and to settle at Panipat. For this reason only, she is interested to bring back her younger son and initiate the business in the shop in question. The '**need**' so projected, is the most genuine, as any prudent man, would have such desire for the son to return back and to initiate business, in the shop owned by the landlady.

Such being the desire, which is honest and sincere and cannot be taken to be mere pretense, the 'need' so set up, is most bonafide and for this reason, the age of Kaushaliya Devi, cannot be an obstruction to seek eviction of the shop in question.

Very true, Manish Kumar, as such, has not stepped into witness



box. However, non-examination of son of Kaushaliya Devi is of no consequence. The landlady is herself competent to speak about the requirement of the member of her family, since the 'need' of the member of the family, would be 'need' of the landlady, when she has expressed her desire in the application also about emotional need, on her part, not to leave her house.

Thus, Manish Kumar, not stepping into witness box or his non-examination, as such, has been very appropriately considered by learned Appellate Authority, to be not fatal to the case of bonafide necessity, as set up by the landlords.

Besides the aforesaid, another argument put forth is about Manish Kumar, for whose necessity, the ejectment of the tenant has been sought, to have sold the property, sale deed dated 25.08.2006 whereof, was proved by the tenant himself. However, it is pertinent to mention that close perusal of the sale deed, coming on record, establish that the property sold by Manish Kumar was a vacant plot, measuring 5.19 Marla. From the recitals of the said sale deed, it is evident that Manish Kumar had sold a vacant plot and it was not a commercial property and that too, the sale was effected in the year 2006, whereas, the eviction application was filed in the year 2012. Thus, this sale/transfer, even though considered, does not dilute the need, now set up by the landlady.

Likewise, much emphasis has also been laid upon Kaushaliya Devi, having admitted in the cross-examination about herself to have inducted a tenant in the house. Again, it has been very appropriately considered by learned Appellate Authority that induction of the tenant, on the ground-floor

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of the house, situated in Gali Panditan in Jandiala Guru, does not counter the 'need' so set up, as it is a residential property. Induction of a tenant, in part of the residential property, as such, does not refrain the landlords from seeking eviction of the tenant from the demised shop, on the ground of personal need of respondent No.1 as well as Manish Kumar, who want to do business in the demised shop.

Apart from it, there is nothing, as such, brought on record to substantiate, as to whether the landlady or Manish Kumar, transferred any commercial property. Such being the state of affairs, when the vacant plot has been sold and that too, six years prior to the filing of eviction application, the 'need' so set up, which, as observed aforesaid, is sincere and honest and not a mere pretense, the submission aforesaid made by counsel for the petitioner-tenant, also carries no weight.

Considering the clear and cogent evidence threadbare, learned Appellate Authority has rightly accepted the appeal and ordered eviction of the petitioner-tenant. The judgment under challenge, does not suffer from any infirmity, impropriety or illegality and thus the same brooks no interference.

Hence, the revision petition sans merit and the same is hereby dismissed.

The pending civil misc. applications, if any, shall stand disposed of.

January 28, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No